

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

WILLIAM T. MOCK; *et al.*,

Plaintiffs,

v.

MERRICK GARLAND, in his official capacity as Attorney General of the United States; *et al.*,

Defendants.

Civil Action No. 4:23-cv-00095-O

DECLARATION OF DAVID DAHL

I, David Dahl, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following statements are true and correct to the best of my knowledge:

1. I am over 18 years of age, competent to testify, and have personal knowledge of the matters stated herein.

2. I am the Chief Operating Officer and Executive Vice President of Manufacturing of Maxim Defense Industries, LLC (“Maxim Defense”) and have held those positions since 2018. I have worked for Maxim Defense, in some capacity, since 2015.

3. Maxim Defense brings this action on behalf of itself and its customers.

4. Maxim Defense is a member of Firearms Policy Coalition.

5. Maxim Defense is a firearms and firearms accessories manufacturer and retailer in good standing, registered in the State of Florida, and based in St. Cloud, Minnesota. Maxim Defense has had sales within the Northern District of Texas, including within this Division.

6. Maxim Defense specializes in the manufacture and sale of the stabilizing braces and pistols equipped with stabilizing braces (“braced pistols”) that are at issue in this lawsuit.

Maxim Defense's stabilizing braces are designed, manufactured, and intended to allow individuals to fire large and heavy pistols better and more safely by stabilizing the pistol on the operator's forearm. Stabilizing braces comprised about 59% of Maxim Defense's annual non-firearm sales in 2022, which made up over \$5 million in sales. Braced pistols comprised about 74% of its annual firearm sales in 2022, which also made up over \$5 million in sales.

7. Maxim Defense has established a reputation and customer base for its stabilizing braces and its braced pistols. Maxim Defense is the second largest stabilizing brace manufacturer in the United States. Maxim Defense's reputation extends to the veteran and Tier 1/special operations community, including those that are disabled and rely on Maxim Defense's braces and braced pistols to safely operate their firearms.

8. While Maxim Defense has more recently begun manufacturing and selling rifle stocks and short-barreled rifles, those products are not what Maxim Defense is known for and are not as significant to its business as its braced pistols and stabilizing braces.

9. Maxim Defense sells its products in a number of ways. First, as to its stabilizing braces, Maxim Defense sells those products direct to consumers on its website, to OEM firearm manufacturers that use Maxim Defense's stabilizing brace on those manufacturer's firearms, and to various dealers, distributors, and retailers across the United States. Due to the effect of the Final Rule, all of those sales have declined dramatically. Several of those customers have also cancelled their orders, including at least one order for 2,000 stabilizing braces.

10. As to its braced pistols, Maxim Defense follows and complies with all relevant federal law. Prior to the publication of the Final Rule, Maxim Defense sold its braced pistols directly to consumers online, but required the firearm to be shipped and legally transferred to a Federal Firearms Licensee ("FFL") that would then legally transfer the firearm to the consumer

after conducting the required federal background check. Maxim Defense also previously sold its braced pistols to dealers, distributors, and other licensed FFL retailers so that those retailers could then carry and sell Maxim Defense's products. Due to the nature of firearms laws in the United States, what may be recorded as a single 'transaction' originating with Maxim Defense, also necessarily involves multiple third parties. Each party that handles the transaction, from beginning to end, of a Maxim Defense braced pistol to the ultimate end user is necessary due to federal and state law, is required for Maxim Defense to engage in its business practices, and will be independently harmed absent those sales. Maxim Defense has ceased all sales of its braced pistols since January 31, 2023. Maxim Defense has several outstanding orders that have been canceled or are being held due to the impact of the Final Rule.

11. The Final Rule's new requirements, and its effective destruction of the stabilizing brace and braced pistol market, has and will continue to directly, severely, and irreparably impact Maxim Defense's business. Should nothing change, Maxim Defense will lose the ability to operate as a business and be stripped of the goodwill that it has developed over the course of the last decade as a manufacturer of pistol braces and braced pistols. At minimum, these new requirements will cost Maxim Defense a significant amount of monetary expenditures, including changes in business model, changes in product offerings, changes in and loss of staff, product loss, increased compliance costs, and a loss of customers.

12. Absent an injunction, Maxim Defense anticipates that it could lose more than \$6 million in sales after one month and will continue to lose millions of dollars over the next few months. To add insult to the injury of direct pecuniary loss, this Final Rule was released when Maxim Defense generally establishes most of its sales contracts and orders for the year—during a series of Q1 industry, dealer, distributor, and retailer shows.

13. The harms to Maxim Defense are far from speculative—Maxim Defense has pending orders for hundreds of thousands of dollars’ worth of product that it can no longer transfer to the buyers because of the Final Rule. Maxim Defense also has manufacturing orders for thousands of braces that are even now being canceled because of the Final Rule and more than \$1 million in materials that it purchased in anticipation of its sales in 2023 that it can no longer use for their intended purpose. Due to the Final Rule, Maxim Defense has already seen a huge decline in sales overall.

14. As Maxim Defense loses revenue from its inability to sell its braced pistol, it will also lose the ability to continue to employ as much as 50% of its current staff. Just this week, Maxim Defense will be parting ways with three full-time and one part-time employees because of the loss of revenue from the Final Rule. Maxim Defense anticipates more layoffs will have to occur within 30 days if it does not receive relief from the effect of the Final Rule.

15. The Final Rule specifies that “[a]pproximately 4 manufacturers of ‘stabilizing braces’ will be significantly affected by more than 10 percent of their revenue,” which includes Maxim Defense. Final Rule at 6,572.

16. Further, the Final Rule notes that “Type 7 FFLs may also experience a range of costs from \$738 to \$13,344, to an unknown loss of revenue due to the inability to sell ‘stabilizing braces[,]’” which again includes Maxim Defense, but is also dramatically lower than the actual costs and losses Maxim Defense will suffer because of the Final Rule.

17. Maxim Defense closely follows and ensures it follows all regulations applicable to its business. Based upon classification letters issued by the ATF, guidance readily available on the ATF’s website, and my understanding of federal law, none of the braced pistols sold by Maxim

Defense are “rifles” under federal law nor were they considered such until the publication of the Final Rule on January 31, 2023.

18. It is also my understanding that the Final Rule has fundamentally changed and expanded the Agencies’ application of the definition of “rifle,” potentially making each of the ATF’s relevant classification determinations as to stabilizing braces now inapplicable.

19. Because the Agencies’ purported to make the Final Rule effective immediately upon publication in the Federal Register, Maxim Defense has been forced to comply with the terms of the Final Rule, whether the Agencies’ have the authority to make the rule effective immediately or not, for fear of legal liability and criminal prosecution. As a result, the negative impacts to Maxim Defense; its employees; its OEM customers; its FFL, distributor, and retail partners; and its individual customers has been immediate, and Maxim Defense could be put out of business in a matter of months.

DATED this 9 th day of February, 2023.



David Dahl
COO/EVP of Manufacturing
Maxim Defense Industries, LLC